

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

FEB 25 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Closed Captioning and Video)	
Description of Video Programming)	MM Docket No. 95-176
)	
Implementation of Section 305 of the)	
Telecommunications Act of 1996)	
)	
Video Programming Accessibility)	

To: The Commission

COMMENTS OF COSMOS BROADCASTING CORPORATION

Cosmos Broadcasting Corporation ("Cosmos"), by its attorneys, submits herewith its Comments on the FCC's *Further Notice of Proposed Rule Making* regarding the closed captioning of emergency information in video programming.^{1/}

A. Introduction.

Cosmos supports the Commission's goal to ensure that emergency information is accessible to hearing impaired viewers. However, its proposal to require real-time captioning of emergency information is not feasible or necessary to achieve that goal. The cost of real-time captioning is exorbitantly high and the number of real-time captioners limited. Thus, from an economic and practical standpoint, real-time captioning is not a viable option for broadcasters at this time.

^{1/} *Closed Captioning and Video Description of Video Programming*, Further Notice of Proposed Rule Making, MM Docket No. 95-176 (released Jan. 14, 1998) ("*Further Notice*").

Nor is it necessary for the Commission to require real-time captioning to ensure viewer access. The majority of broadcasters participate on the local and regional levels in the Emergency Alert System ("EAS") which requires that emergency messages be textually displayed. In addition to active participation in EAS, broadcasters already provide a significant level of captioned programming to serve the needs of their hearing impaired viewers and in accordance with the FCC's closed captioning rules will be increasing the amount of captioned programming in the coming years. In short, broadcasters have responded to the needs of their communities and the competitive requirements of the marketplace; additional restrictions are not warranted to achieve the Commission's goals.

B. Real-Time Captioning Is Not a Feasible Means of Ensuring Accessibility to Emergency Information.

In its *Report and Order* in this proceeding, the Commission declined to require video program providers to use real-time captioning to close caption video programming.^{2/} The Commission reached this conclusion based on the scarcity of skilled real-time captioners and the cost of providing real-time captioning. *Id.* The Commission also noted that alternative captioning methodologies such as electronic newsroom ("ENR") captioning are available which are easier to implement and would permit broadcasters to caption an increased amount of programming more quickly during the closed captioning transition period. *Id.* The same rationale applies here, and warrants the same conclusion.

^{2/} *Closed Captioning and Video Description of Video Programming*, Report and Order, MM Docket No. 95-176, ¶ 84 (released Aug. 22, 1997) ("*Report and Order*").

If required at this juncture, real-time captioning is likely to slow rather than facilitate the transition to full captioning. The availability of real-time captioners remains severely limited. As noted by several commenters in the earlier stages of this proceeding, there is a shortage of qualified stenocaptioners and there are certainly not enough stenocaptioners to serve the entire television industry.

Because real-time captioning is such a scarce resource, the cost of providing this service remains prohibitively high. Captioning services such as Caption Colorado, an agency in Colorado that provides such services, charge a minimum of \$120 per hour for the captioning of station programs. Caption services must be purchased in half-hour increments (for which the charge is \$60 per half-hour) and additional charges apply for scheduled and unscheduled standby captioning (\$40 per hour for scheduled standby; \$120 per hour for unscheduled standby). In cases where emergency information is being relayed to viewers, the unscheduled standby charges would undoubtedly apply. In addition, the hourly charges do not include Caption Colorado's start-up fee for equipment and software, which is estimated to be approximately \$10,000, or internal station costs such as setting up additional telephone lines, long distance telephone charges, and hiring additional staff to coordinate the captioning process and to work directly with the captioning service on an ongoing basis. Thus, even based on a conservative estimate of \$120 per hour for captioning, and not taking into account any other charges or costs, the cost of captioning station programming 24 hours per day, 365 days per year, would cost a station over \$1 million per year.

These start-up and ongoing costs for real-time captioning are significantly greater than that necessary to establish and implement an ENR system. *See id.* ¶ 84, n.256. While establishment of ENR is certainly within most stations' economic reach, real-time captioning at current prices is not. Until real-time captioning becomes practically available, stations will be unable to sustain the financial burden of providing real-time captioning and meet the Commission's timetable for the captioning of new programming. Permitting broadcasters to use available and less expensive captioning technologies such as ENR to caption emergency information will enable program providers to caption increased amounts of video programming, including news programming, in accordance with the Commission's captioning timetable. This approach also will allow the further development of real-time captioning as a viable alternative to the ENR methodology.

C. Real-Time Captioning Is Unnecessary to Ensure Viewer Accessibility to Emergency Information.

There is no need for the Commission to require real-time captioning of emergency information given broadcasters' participation in the EAS and that broadcasters, recognizing the needs of their viewers, currently caption a significant amount of other emergency information that would not ordinarily be relayed through the EAS.

I. EAS. The Commission's rules governing participation in the Emergency Alert System ("EAS") are specifically designed to ensure that emergency alert messages are accessible to hearing-impaired viewers. Television stations are required to transmit a visual message and if the message is a video crawl, the text must be displayed at a location on the

television screen where it will not interfere with other video messages. 47 C.F.R.

§ 11.51(d) (1996).^{3/}

In the *Further Notice*, the Commission expressed concern that EAS does not provide viewers sufficient access to local and regional emergencies because broadcasters are only required to use EAS in national emergencies. *Further Notice* ¶ 8. However, the evidence of broadcasters' use of EAS, and its predecessor, the Emergency Broadcast System ("EBS"), in local and regional emergencies makes it clear that there is no basis for the Commission's concern. Although broadcasters are only required to use EAS in national emergencies, each state has an EAS plan and numerous broadcast stations voluntarily and actively participate in such plans on the state and local levels. As the Commission noted in its *Report and Order* adopting the EAS rules, although there has never been an activation of the EBS for a national emergency,

[m]ore than 20,000 activations of the EBS have been reported since 1975, and every state and territory have used it. State and Local Emergency Communications Committees are responsible for the development of plans which detail procedures for stations and officials to follow for activation of the EBS. Broadcast stations have voluntarily made increasing use of EBS since the system was allowed to be used for local emergencies.

Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency

Broadcast System, Report and Order, FO Dockets 91-301, 91-171, 10 FCC Rcd 1786, 1790

(1994). The Commission further emphasized that its figure of 20,000 activations included only those activations voluntarily reported and that it believed that "thousands of additional

^{3/} Cable systems also are now required to provide audio and video EAS messages on all channels or an equivalent function that would alert deaf or hard-of-hearing viewers. *Id.* § 11.51(g).

alerts have been issued." *Id.* n.7. Thus, it is clear that broadcasters use EAS on a routine basis to provide viewers critical information concerning local and regional emergencies.

2. Other Emergency Information. Broadcasters also provide emergency information to viewers that extends well beyond the scope of EAS activations. Stations recognize that to serve their viewers and to compete effectively with other video providers, it is essential to caption station programs, including emergency messages. Routinely, stations update viewers on a wide variety of emergency situations, including severe storm conditions, environmental hazards, and traffic conditions, just to name a few. A significant amount of such emergency information already is captioned or displayed in textual format, and undoubtedly the amount of such information that is captioned will increase as captioning technology develops and becomes practically available to a greater number of broadcasters.^{4/}

In sum, given the substantial level of broadcaster participation in local and state EAS systems and that broadcasters already provide significant amounts of captioned programming, it is simply unnecessary to require that emergency messages be real-time captioned.

D. Conclusion.

Currently, real-time captioning is not a feasible means of ensuring that hearing-impaired viewers have access to emergency information in video programming. The cost of providing a real-time captioning service is not within the financial reach of many broadcasters. And, if broadcasters are required to make such a significant investment at the

^{4/} The Commission also should exercise caution in defining the types of emergency information that must be captioned. Only bona fide emergencies such as those listed in 47 C.F.R. § 73.1250 should be subject to the captioning rules.

beginning of the captioning transition period, the captioning of other new programming is likely to be substantially delayed to the detriment of hearing impaired viewers.

In addition, emergency information is currently fully accessible to hearing impaired viewers through the visual transmission of EAS and other emergency messages. In response to viewer needs and market realities, broadcasters are captioning increased amounts of programming. There is simply no need for the Commission to establish any additional closed captioning requirements.

Based upon the foregoing, Cosmos respectfully urges the Commission not to require real-time captioning for emergency information programming.

Respectfully submitted,

COSMOS BROADCASTING CORPORATION

By: Elizabeth A. McGeary
Werner K. Hartenberger
Elizabeth A. McGeary

Its Attorneys

DOW, LOHNES & ALBERTSON, PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036
(202) 776-2000

February 25, 1998